

## **REMARKS**

Claims 1 and 5-7 are presented for prosecution in the present application.

### **35 USC §112 Rejections**

First, claims 1 and 5-7 again have been rejected under 35 USC §112, first paragraph for alleged failure to meet the enablement requirement as to the “continuous thread” limitations in claim 1. According to the rejection, Applicant is allegedly attempting to claim a nonenabled embodiment of a package having continuous threads. Similarly, claims 1 and 5-7 also again have been rejected under 35 USC §112, second paragraph as allegedly being indefinite. Although Applicant is of the opinion that claims 1 and 5-7 are in fact enabled and definite for the multitude of reasons already set forth during prosecution, Applicant has amended the claims as suggested by the Examiner. Applicant asserts that no new matter has been added, that the claims particularly point out and distinctly claim the subject matter that Applicant regards as the invention, and that the amended claims as well as the claims depending therefrom are allowable. Accordingly, reconsideration and withdrawal of the rejections of claims 1 and 5-7 under 35 U.S.C. § 112 are respectfully requested.

Second, claim 5 again has been rejected under 35 USC §112, second paragraph as allegedly being indefinite. According to this rejection, it is not clear to the Examiner what the terminology “reverse angled” means. Unfortunately, the Examiner seems to have overlooked the amendments that Applicant made to claim 5 in the preceding Amendment at the Examiner’s suggestion. Reconsideration and withdrawal of the rejection to claims 5 are respectfully requested.

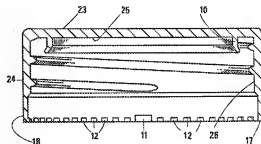
### **35 USC §103 Claim Rejections**

Independent claim 1 and dependent claims 5-7 have been rejected under 35 USC §103 as unpatentable over Shah 4,375,858 in view of Swartzbaugh 4,399,920 and further in view of Akers 5,449,078. Reconsideration and withdrawal of the rejections is respectfully requested.

A *prima facie* case of obviousness requires a proposed combination of references to teach or suggest all elements of a rejected claim. See *CFMT, Inc. v. Yieldup Int'l Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) (citing *In re Royka*, 490 F.2d 981, 985 (CCPA 1974)). In this case, it is clear that there are unreconciled differences between the proposed combination and Applicant's claims and, thus, the Office Action does not set forth a *prima facie* case of obviousness. Also, under MPEP § 2142, if the Examiner's burden to produce a *prima facie* case of obviousness is not satisfied, then an applicant is under no obligation to submit evidence of nonobviousness.

Applicant's amended independent claim 1 recites, *inter alia*, a container having an external radial projection spaced from a thread on the container and a shoulder of the container, and a closure having a skirt including a first portion with a thread, and an enlarged second portion connected to the first portion by inner and outer shoulders. The second portion terminates at an open end, and has an internal surface stepped radially outwardly from an internal surface of the first portion. A locking lug and a stop lug are disposed on the internal surface and the locking lug is positioned proximate and just axially above the open end of the enlarged second portion and the stop lug is positioned proximate and just axially below the inner shoulder.

Shah discloses a container body 19 having a neck portion 16 with a continuous thread 20 and holding lugs 15 with cam surfaces 14. As shown below, Shah also discloses a closure 18 applied to the container body 19 and including a top 23, an outer flange 24, 26, and a flange rim 17 including rectangular locking tabs 11 corresponding to the holding lugs 15 of the container body 19. The flange rim 17 also includes friction tabs 12 spaced between the locking tabs 11 to provide an audible indicator of locking engagement.



But Shah fails to disclose, *inter alia*, a closure skirt including a first portion, and an enlarged second portion connected to the first portion by inner and outer shoulders. Shah also fails to disclose a second portion of a skirt that terminates at an open end, and that has an internal surface stepped radially outwardly from an internal surface of a first portion of a skirt. Shah further fails to disclose both a locking lug and a stop lug disposed on the internal surface and Shah certainly does not disclose that the locking lug is positioned proximate and just axially above an open end of the nonexistent enlarged second portion and that the nonexistent stop lug is positioned proximate and just axially below an inner shoulder.

Swartzbaugh does not remedy the deficiencies of Shah. Swartzbaugh identifies a problem with child resistant packages, including difficulties in removing a closure from a container. As a solution, Swartzbaugh teaches a closure that is more readily removable from a container. Specifically, with reference to FIGS. 2 and 3 of Swartzbaugh shown below, Swartzbaugh discloses a container 20 having projections 25

with cam surfaces 26 and radial and axial surfaces 27, 28 defining shoulders, and a closure 21 including a skirt 31 having radially inwardly extending rectangular locking lugs 36 and cam lugs 37 with cam surfaces 38. During removal of the closure 21 from the container 20,

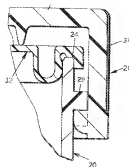


FIG. 2

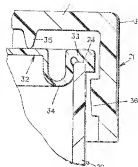


FIG. 3

rotation of the closure 21 causes the cam lugs 37 to engage the projections 25 so as to cam the closure 21 axially upwardly for ready removal of the closure 21 from the container 20.

But Swartzbaugh does not disclose, *inter alia*, any threads on the container 20 or the closure 21 separate from the projections 25. And, like Shah, Swartzbaugh fails to disclose a closure skirt including a first portion and an enlarged second portion connected to the first portion by inner and outer shoulders. Swartzbaugh also fails to disclose a second portion of a skirt that terminates at an open end, and that has an internal surface stepped radially outwardly from an internal surface of a first portion of a skirt. Swartzbaugh further fails to disclose that a stop lug is positioned proximate and just axially below the nonexistent inner shoulder.

Akers does not cure the aforementioned deficiencies of Shah or Swartzbaugh. Akers discloses a container 10 including a camming latch 21 having a cam receiving notch 22, and a cap 11 including a lock lug 20 which is guided into the notch 22 upon rotation of the cap 11 on the container 10.

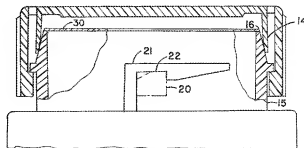


FIG. 6

But Akers fails to disclose, *inter alia*, any threads on the container 10 or the cap 11. And, like Shah, Akers also fails to disclose a closure skirt including a first portion, and an enlarged second portion connected to the first portion by inner and outer shoulders. Akers additionally fails to disclose a second portion of a skirt that terminates at an open end, and that has an internal surface stepped radially outwardly from an internal surface of a first portion of a skirt. Akers further fails to disclose both a locking lug and a stop lug disposed on the internal surface and Akers certainly does not disclose that the locking lug is positioned proximate and just axially above an open end of the nonexistent enlarged second portion and that the nonexistent stop lug is positioned proximate and just axially below an inner shoulder.

Therefore, the alleged combination of Shah, Swartzbaugh, and Akers does not disclose, teach, or suggest several limitations, as recited in Applicant's amended independent claim 1. Thus lacking multiple significant elements of Applicant's claim 1, the alleged combination cannot possibly yield or render obvious the subject matter of that claim.

For at least these reasons, amended independent claim 1 defines patentable subject matter over all cited references. Claims 5-7 are dependent upon claim 1 and, thus, all dependent claims define patentable subject matter for at least those reasons that claim 1 is patentable and for the additional points of novelty recited in these dependent claims.

### **Conclusion**

It therefore is believed and respectfully submitted that all claims 1 and 5-7 remaining in the application are allowable at this time, and favorable consideration is respectfully requested.

Please charge any fees associated with this submission to Account No. 50-4417 (Rexam Plastic).

Respectfully submitted,

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